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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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2003 JUN -2 P 4: 54

AZ CORP COMMISSION  
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UTILITIES DIVISION STAFF,

Complainant,

vs.

Docket No. T-03889A-02-0796  
T-04125A-02-0796

LIVEWIRENET OF ARIZONA, LLC n/k/a THE PHONE  
COMPANY MANAGEMENT GROUP, LLC; THE PHONE  
COMPANY OF ARIZONA JOINT VENTURE, d/b/a/ THE  
PHONE COMPANY OF ARIZONA; ON SYSTEMS  
TECHNOLOGY, LLC, and its principals, TIM  
WETHERALD, FRANK TRICAMO, DAVID STAFFORD,  
MARC DAVID SHINER and LEON SWICKOW; THE  
PHONE COMPANY OF ARIZONA, LLP and its members

Respondents.

IN THE MATTER OF THE PHONE COMPANY OF  
ARIZONA JOINT VENTURE d/b/a/ THE PHONE  
COMPANY OF ARIZONA'S APPLICATION FOR  
CERTIFICATE OF CONVENIENCE AND NECESSITY TO  
PROVIDE INTRASTATE TELECOMMUNICATIONS  
SERVICE AS A LOCAL AND LONG DISTANCE  
RESELLER AND ALTERNATIVE OPERATOR SERVICE.

Docket No. T-04125A-02-0577

IN THE MATTER OF THE APPLICATION OF THE  
PHONE COMPANY MANAGEMENT GROUP, LLC f/k/a  
LIVEWIRENET OF ARIZONA, LLC TO DISCONTINUE  
LOCAL EXCHANGE SERVICE.

Docket No. T-03889A-02-0578

IN THE MATTER OF THE APPLICATION OF THE  
PHONE COMPANY MANAGEMENT GROUP, LLC FOR  
CANCELLATION OF FACILITIES BASED AND RSOLD  
LOCAL EXCHANGE SERVICES.

Docket No. T-03889A-03-0152

IN THE MATTER OF THE APPLICATION OF THE  
PHONE COMPANY MANAGEMENT GROUP, LLC d/b/a/  
THE PHONE COMPANY FOR THE CANCELLATION  
OF ITS CERTIFICATE OF CONVENIENCE AND  
NECESSITY.

Docket No. T-03889A-03-0202

AMENDED COMPLAINT

1 Staff ("Staff") of the Utilities Division ("Division") of the Arizona Corporation Commission  
2 ("ACC" or the "Commission"), for its Complaint and Petition for Relief against LiveWireNet Of  
3 Arizona, LLC n/k/a The Phone Company Management Group, LLC d/b/a The Phone Company, The  
4 Phone Company of Arizona Joint Venture d/b/a The Phone Company of Arizona, On Systems  
5 Technology, Inc., LLC, and its principals, Tim Wetherald, Frank Tricamo and David Stafford  
6 Johnson, Leon Switchkow and Marc Shiner, and the Phone Company of Arizona, LLP and its  
7 members, alleges as follows:

### 8 JURISDICTION

9 1. The Commission has jurisdiction to hear complaints against public service  
10 corporations pursuant to A.R.S. § 40-246. The Commission has jurisdiction to supervise and regulate  
11 public service corporations pursuant to Article XV of the Arizona Constitution and Title 40 of the  
12 Arizona Revised Statutes.

### 13 RESPONDENTS

14 2. Respondent LiveWireNet of Arizona, LLC d/b/a LiveWireNet is a public service  
15 corporation which on February 16, 2001, in Decision No. 63382, was authorized to provide facilities-  
16 based and resold local and long distance in Arizona.

17 3. On January 30, 2002, LiveWireNet filed a request to have its name changed to The  
18 Phone Company Management Group, LLC d/b/a The Phone Company, also listed as a Respondent.  
19 The Company's request for name change and proposed tariff was docketed as T-03889A-02-0080.

20 4. Respondent The Phone Company of Arizona Joint Venture d/b/a The Phone Company  
21 of Arizona filed an application on July 31, 2002, for a statewide CC&N to provide resold long  
22 distance telecommunications services, resold local exchange telecommunications services, and  
23 alternative operator services in Arizona. The Company's application was docketed as T-04125A-02-  
24 0577. It is still pending before the Commission.

25 5. Respondent On Systems Technology, LLC is a Colorado limited liability company  
26 and a general partner in The Phone Company of Arizona Joint Venture. On Systems Technology was  
27 also retained by The Phone Company of Arizona, LLP to perform management services for the  
28

1 Phone Company of Arizona. Members of On Systems Technology included during relevant time  
2 periods, Tim Wetherald, Frank Tricamo, David Stafford Johnson, Leon Switchkow and Marc Shiner.

3 6. Respondents The Phone Company of Arizona LLP, and its members, held a 70%  
4 interest in The Phone Company of Arizona Joint Venture. On Systems Technology held a 30%  
5 interest in The Phone Company of Arizona Joint Venture. Subsequently, Michael Glaser, attorney  
6 for Mr. Wetherald, filed a request to withdraw the application for CC&N filed by the Phone  
7 Company of Arizona.

### 8 **BACKGROUND**

9 7. Several Applications involving the Respondents are now pending before the  
10 Commission. Some of the information contained in these Applications, as well as recent information  
11 received by Staff regarding investigations in other States involving On Systems Technology, Tim  
12 Wetherald and/or other companies owned or managed by them, as well as customer complaints  
13 recently filed in Arizona have raised serious questions about the adequacy of the service now being  
14 provided by Respondents to their customers, their compliance with provisions of Arizona law, their  
15 financial technical capability to provide telephone service and whether they are fit and proper entities  
16 to provide telephone service in Arizona.

17 8. LiveWireNet received a CC&N from the Commission on February 16, 2001, to  
18 provide facilities-based and resold local exchange telecommunications services in the State of  
19 Arizona. Pursuant to Decision No. 63382, LiveWireNet was ordered to file a performance bond in  
20 the amount of \$100,000 within 90 days of the effective date of the Decision. LiveWireNet filed and  
21 received several extensions of time to submit proof of a performance bond which was subsequently  
22 filed with the Commission on February 19, 2002.<sup>1</sup>

23 9. On January 29, 2002, LiveWireNet filed Articles of Amendment with the Arizona  
24 Corporation Commission changing its name to The Phone Company Management Group, LLC. On  
25 January 30, 2002, Mr. Wetherald, filed an initial tariff and price list for The Phone Company  
26 Management Group, LLC, a/k/a "The Phone Company."

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27  
28 <sup>1</sup> Phone Company of Arizona, LLP members allege that Mr. Wetherald misappropriated funds provided by them to satisfy the bonding requirement for LiveWireNet.

1           10.     On July 31, 2002, the Phone Company Management Group, LLC (fna LiveWireNet)  
2 filed an Application to Discontinue the provision of competitive facilities based and resold local  
3 exchange service in Arizona.<sup>2</sup> The Application stated that Live Wire Networks, Inc. ("LWN"), a  
4 Nevada corporation, agreed to sell to On Systems Technology, LLC all of the membership interests  
5 held by LWN in LiveWireNet. It also stated that pursuant to R14-2-1107, LiveWireNet was making  
6 application to discontinue local exchange service, in order to affect a transfer of LWN's membership  
7 interest in LiveWireNet to On Systems Technology and a transfer of LiveWireNet's CC&N to On  
8 Systems Technology. The Application also stated that it was being filed simultaneously with the  
9 Application of the Phone Company of Arizona Joint Venture, in which On Systems Technology was  
10 a partner, and which would continue the local exchange service provided by LiveWireNet upon a  
11 grant of that Application. Finally, Applicant stated that it was "not proposing a refund of the  
12 deposits collected pursuant to R14-2-503, subsection b, because LiveWireNet will transfer its  
13 customer base to the Phone Company of Arizona Joint Venture, and there will be no disruption of  
14 service."

15           11.     On July 31, 2002, an Application for a Certificate of Convenience & Necessity was  
16 filed for "The Phone Company of Arizona Joint Venture" d/b/a "The Phone Company of Arizona."  
17 The Applicant's Management Contact was listed as Tim Wetherald and its attorney was listed as  
18 Michael L. Glaser. In the Application, it was stated that The Phone Company of Arizona Joint  
19 Venture was created on June 6, 2002. It was also stated that the Applicant had been funded by The  
20 Phone Company of Arizona, LLP, a general partner in Applicant, in the amount of \$619,000. The  
21 Phone Company Management Group, LLC, (which was referred to as a subsidiary of "On Systems  
22 Technology, LLC") and also a general partner of Applicant, was to serve as the managing partner of  
23 the Applicant. The Application also listed the members of On Systems Technology, LLC and The  
24 Phone Company Management Group, LLC as Tim Wetherald, Frank Tricamo and David Stafford  
25 Johnson.

26  
27  
28 <sup>2</sup> In its Application, it was stated that LiveWireNet began providing resold/local exchange service after meeting the conditions set forth by the Commission in Decision No. 63382 on March 1, 2001, which would have been before the Company complied with the bonding requirements in the Commission's Order.

1           12.     Upon information and belief, Respondents have been advertising and signing up  
2 customers in Arizona under the name "The Phone Company of Arizona." Upon information and  
3 belief, at the time Staff's original Complaint was filed, The Phone Company Management Group  
4 and/or The Phone Company of Arizona provided services to approximately 4,500 customers in  
5 Arizona.

6           13.     On October 4, 2002, Mr. Glaser filed a letter on behalf of The Phone Company of  
7 Arizona Joint Venture, d/b/a The Phone Company of Arizona stating that The Phone Company of  
8 Arizona LLP which held a 70% ownership in the Phone Company of Arizona (On Systems  
9 Technology held the other 30%) had failed to make its initial capital contribution of \$619,000.00, and  
10 therefore, was deemed to have withdrawn from The Phone Company of Arizona. Mr. Glaser also  
11 stated that under the Joint Venture Agreement, the interests held by the Limited Partnership were  
12 deemed to be terminated and transferred, along with the capital account balance maintained on behalf  
13 of the Limited Partnership by the manager of The Phone Company, to On Systems Technology.  
14 Thus, according to Mr. Glaser, On Systems now owned all of The Phone Company of Arizona. Mr.  
15 Glaser also stated that as sole owner of the Phone Company of Arizona, On Systems Technology had  
16 decided to voluntarily withdraw The Phone Company of Arizona Joint Venture's application for a  
17 CC&N.

18           14.     On or about September 20, 2000, Staff was apprised by several of the general partners  
19 of the Phone Company of Arizona, LLP, that Mr. Wetherald and On Systems Technology, LLC were  
20 taking actions on behalf of The Phone Company of Arizona Joint Venture without their authorization.  
21 Staff was also apprised by several of the general partners of The Phone Company of Arizona, LLP, of  
22 several investigations at other State commissions involving other telephone companies owned or  
23 managed by On Systems Technology, LLC in other States.

24           15.     Staff was also apprised shortly thereafter that The Phone Company Management  
25 Group was seriously delinquent in its payments to Qwest in Arizona, the underlying wholesale  
26 service provider. At the time Staff filed its original Complaint, the Company was delinquent in its  
27 payments to Qwest in the approximate amount of \$538,000.00. At the time Staff filed its original  
28 Complaint, the total amount owing to Qwest was over \$850,000.00. Staff was also apprised by

1 Qwest that it had stopped processing new Local Service Requests ("LSRs") for The Phone Company  
2 Management Group and/or The Phone Company of Arizona in the State of Arizona because of its  
3 failure to make payments for the underlying services provided by Qwest. Staff was also apprised that  
4 Qwest had given notice to the Company that nonpayment of the past due balance would lead to  
5 eventual service disconnection.<sup>3</sup> In a February 25, 2003 Procedural Order, the Phone Company  
6 Management Group was ordered to send notice to its customers of the possible disconnection by  
7 Qwest. PCMG refused to provide notice to its customers, and the Staff subsequently sent a notice to  
8 PCMG's customers. On or about March 21, 2003, Qwest disconnected service to the Phone  
9 Company Management Group and/or The Phone Company of Arizona due to billing disputes and  
10 nonpayment of undisputed amounts owing.

11 16. On or about this same date, the Commission received notice that the Phone Company  
12 Management Group had entered into an agreement to transfer its customer base to USURF America.  
13 Upon information and belief, PCMG caused a notice to be issued to its customers apprising them of  
14 the proposed transfer to USURF and DMJ Communications, in contravention of the Commission's  
15 February 25, 2003 and March 3, 2003 Procedural Order.

16 17. On March 28, 2003, Staff filed the Direct Testimony of John Bostwick and Brad  
17 Morton in support of the allegations in its original Complaint.

18 18. On April 3, 2003, The Phone Company Management Group filed a Motion to  
19 Terminate these Complaint Proceedings. PCMG stated that it voluntarily surrendered its Certificate  
20 of Convenience and Necessity to the ACC, effective April 1, 2003, and requested cancellation of its  
21 tariff effective the same date. According to PCMG, having surrendered its CC&N, all of the issues  
22 raised in this proceeding have been rendered moot. PCMG's Motion to Terminate was subsequently  
23 denied by ALJ Dion in his May 15, 2003 Procedural Order.

24 19. As of the date of this Amended Complaint, the Commission had received 77 customer  
25 complaints regarding The Phone Company of Arizona, including complaints involving disruption of  
26  
27

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28 <sup>3</sup> Staff has informed Qwest that it may not disconnect service without prior notice to the Commission so that customer  
may be transferred to other providers if necessary without service disruption.

1 service, and an inability to get in contact with Company representatives at the telephone numbers  
2 provided.

3         20. Respondents Tim Wetherald and On Systems Technology were affiliated with Mile  
4 High Telecom Joint Venture, a general partnership comprised of On Systems Technology and Mile  
5 High Telecom Partners, LLP, a Colorado limited partnership.

6         21. On or about September 20, 2002, Staff of the Commission was notified of  
7 investigations against Mile High Telecom Joint Venture in the State of Colorado, and of  
8 investigations which were being commenced in the States of Washington and Minnesota into  
9 affiliates of the Phone Company Management Group and On Systems Technology.

10         22. On or about February 20, 2002, the Colorado Public Utilities Commission issued an  
11 Order to Show Cause and Notice of Hearing which stated that Mile High Telecom Partners, LLP was  
12 providing resold local exchange services in Colorado without Colorado Commission authority, and  
13 was collecting for jurisdictional telecommunications services without an effective tariff on file.

14         23. While this matter was subsequently settled, the case was reopened. At least one other  
15 docket has been opened in Colorado addressing the application of Mile High Telecom Joint Venture  
16 to discontinue or curtail jurisdictional telecommunications service. Qwest filed pleadings in that  
17 Docket alleging that Mile High Telecom Joint Venture was delinquent in its payments to Qwest for  
18 wholesale services rendered in an amount of approximately \$2.6 million dollars in Colorado. In  
19 April, 2003, Mile High Telecom was subsequently ordered to cease operations in Colorado.

20         24. On October 8, 2002, the Minnesota Department of Commerce filed a complaint with  
21 the Minnesota Public Utilities Commission ("MPUC") alleging that the Minnesota Phone Company,  
22 another entity owned in part or managed by On Systems Technology and Mr. Wetherald had been  
23 offering local telephone service for months without State approval. The Complaint also stated that  
24 the Company did not have a certified 911 emergency calling plan. At the time of Staff's original  
25 Complaint, the Commerce Department was recommending that the PUC require the Minnesota Phone  
26 Company to return all charges paid by customers since it began doing business in the state, and that it  
27 be fined \$10,000 a day for violating the law. Sources reported that the total fine recommended by the  
28 Department of Commerce against the Minnesota Phone Company could total several million dollars.

1 Since that time, Mr. Wetherald and On Systems Technology have terminated their affiliation with the  
2 Phone Company of Minnesota.

3 25. Upon information and belief, Mr. Wetherald and/or On Systems Technology have  
4 owned and/or managed approximately four other companies in various states which have since filed  
5 for protection under federal bankruptcy law, the most recent being Mile High Telecom in Colorado.  
6 Customers were adversely affected as a result.

7 26. Mr. Wetherald is also a party to two Consent Decrees in Washington and Oregon  
8 involving his actions in operating telecommunications ventures in those states.

### 9 10 Claims

#### 11 First Count

12 27. The Utilities Division Staff restates paragraphs 1 through 26 as if fully set forth herein.

13  
14 28. A.R.S. 40-482 provides that "no public service corporation shall exercise any right or  
15 privilege under any franchise or permit without first having obtained from the Commission a  
16 certificate of public convenience and necessity."

17 29. Upon information and belief, the Respondents advertised and offered telephone  
18 service in Arizona as "The Phone Company of Arizona." The Phone Company of Arizona has not  
19 been granted a CC&N by the Commission and its attorney, Michael L. Glaser, withdrew its  
20 Application for a CC&N. Consequently, for a period of several months, the Phone Company of  
21 Arizona signed up customers and provided service without authorization by the Commission.

22  
23 30. All Companies granted CC&N's by the Commission are required to comply with  
24 various Commission orders, rules and regulations. Two of the requirements imposed upon all  
25 certificated CLECs is a performance bond requirement and a tariff requirement. In providing service  
26 without a CC&N, The Phone Company of Arizona operated in violation of these and other  
27 Commission important requirements typically imposed as part of the certification process.  
28



31. Respondent Phone Company of Arizona and its owner and manager should be subject to fines for failing to comply with Arizona Statutes and Commission Rules requiring that all public service corporations acquire a CC&N, and comply with all applicable laws, rules and regulations, to provide telephone service to customers in Arizona. Respondents Tim Wetherald and On Systems Technology and its principals conducted the affairs of PCMG and the Phone Company of Arizona as their "alter ego." Accordingly, they should be held responsible in large part for its conduct in Arizona.

## Second Count

32. The Utilities Division Staff restates paragraphs 1 through 31 as if fully set forth herein.

33. A.R.S. Section 40-361(B) states that “[e]very public service corporation shall furnish and maintain such service, equipment and facilities as will promote the safety, health, comfort and convenience of its patrons, employees and the public, and as will be in all respects adequate, efficient and reasonable.”

34. A.R.S. Section 40-321 states that “[w]hen the commission finds that the equipment, appliances, facilities or service of any public service corporation, or the methods of manufacture, distribution or transmission, storage or supply employed by it are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine what is just, reasonable, safe, proper, adequate or sufficient, and shall enforce its determination by order or regulation.”

35. The Phone Company of Arizona, the Phone Company Management Group and/or On Systems Technology and Tim Wetherald, are not fit and proper entities to provide telephone service in Arizona. Mr. Wetherald, and/or companies owned or managed by him in other jurisdictions, have been the subject of investigations in multiple jurisdictions for infractions of state regulatory rules and by the federal Securities and Exchange Commission for securities fraud violations.

1           36.     Upon information and belief, as a result of the various investigations at the state level,  
2 Mr. Wetherald and/or On Systems Technology are no longer associated with telephone companies  
3 providing service in Colorado, Iowa or Minnesota.

4  
5           37.     Mr. Wetherald or On Systems Technology have also owned or managed  
6 approximately 4 companies that have filed for protection under federal bankruptcy laws. Mr.  
7 Wetherald has also been a party to Consent Decrees in the states of Washington and Oregon for his  
8 actions in operating companies providing telecommunications or telecommunications related  
9 services.

10           38.     Most recently, the United States District Court for the Southern District of Florida,  
11 issued a preliminary injunction against Mr. Wetherald and others (including Leon Switchkow and  
12 Marc Shiner) for alleged violations of the antifraud provisions of the Securities and Exchange Act.

13  
14           39.     The Phone Company Management Group is owned and managed by Mr. Wetherald  
15 and On Systems Technology.

16  
17           40.     Further, as set forth in Counts 3, 4 and 5 following, the Phone Company Management  
18 Group and/or The Phone Company of Arizona are not financially or technically capable of providing  
19 telephone service in Arizona, and accordingly, the Phone Company Management Group's CC&N  
20 should be revoked since it is no longer a fit and proper entity to provide service in Arizona.

21                           **Count Three**

22           41.     The Utilities Division Staff restates paragraphs 1-40 as if fully set forth herein.

23  
24           42.     A.R.S. Section 40-361(B) states that "[e]very public service corporation shall furnish  
25 and maintain such service, equipment and facilities as will promote the safety, health, comfort and  
26 convenience of its patrons, employees and the public, and as will be in all respects adequate, efficient  
27 and reasonable."  
28

43. A.R.S. Section 40-321 states that "[w]hen the commission finds that the equipment, appliances, facilities or service of any public service corporation, or the methods of manufacture, distribution or transmission, storage or supply employed by it are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine what is just, reasonable, safe, proper, adequate or sufficient, and shall enforce its determination by order or regulation.

44. The Respondents Phone Company Management Group and/or The Phone Company of Arizona are not financially capable of providing service in Arizona.

45. At the time of Staff's original Complaint, Respondent Phone Company Management Group and/or The Phone Company of Arizona were delinquent in their payments to Qwest in Arizona, their underlying wholesale service provider, in an amount of approximately \$538,000.00, and it is currently indebted to Qwest in an amount of approximately \$850,000.00.

46. Due to billing disputes and nonpayment, Qwest subsequently disconnected service to the Phone Company Management Group and/or The Phone Company of Arizona.

47. Most recently, Respondent Wetherald has stated that the Phone Company Management Group and/or The Phone Company of Arizona no longer have the financial resources to continue operations in Arizona.

48. Respondent The Phone Company Management Group's CC&N should be revoked due to its financial inability to provide telephone service in Arizona.

### Count Four

49. The Utilities Division Staff restates paragraphs 1-48 as if fully set forth herein.

50. A.R.S. section 40-361(B) states that “[e]very public service corporation shall furnish and maintain such service, equipment and facilities as will promote the safety, health, comfort and

1 convenience of its patrons, employees and the public, and as will be in all respects adequate, efficient  
2 and reasonable.”

3  
4 51. A.R.S. Section 40-321 states that “[w]hen the commission finds that the equipment,  
5 appliances, facilities or service of any public service corporation, or the methods of manufacture,  
6 distribution or transmission, storage or supply employed by it are unjust, unreasonable, unsafe,  
7 improper, inadequate or insufficient, the commission shall determine what is just, reasonable, safe,  
8 proper, adequate or sufficient, and shall enforce its determination by order or regulation.”

9  
10 52. Respondents Phone Company Management Group and/or the Phone Company of  
11 Arizona do not have the technical capability to provide telephone service in Arizona.

12 53. Currently, there have been 77 complaints filed by customers regarding the  
13 Respondents The Phone Company of Arizona’s and/or The Phone Company Management Group’s  
14 inadequate service. Customers have reported that The Phone Company of Arizona’s numbers give  
15 error messages advising that there is no working number. Other complaints have been made by  
16 customers stating that they no longer have long distance service and are unable to reach the  
17 Company.

18  
19 54. Respondent The Phone Company Management Group and/or Respondent The Phone  
20 Company of Arizona have insufficient internal management structure and inadequate staffing to be  
21 technically capable of providing telephone service in Arizona.

22 55. Respondent The Phone Company Management Group’s CC&N should be revoked due  
23 to its technical inability to provide reasonable and adequate telephone service in Arizona.

24  
25 **Count Five**

26 56. The Utilities Division Staff restates paragraphs 1 through 55 above as if fully set forth  
27 herein.  
28

1        57.     The Phone Company Management Group, The Phone Company of Arizona, On  
2 Systems Technology and Mr. Wetherald have, since this proceeding commenced, acted in contempt  
3 and willful violation of several Commission orders.

4  
5        58.     On February 25, 2003, ALJ Dion issued a Procedural Order that ordered LiveWirednet  
6 to notify the customers of the Phone Company of Arizona of the possible termination or interruption  
7 of their service. On February 27, 2003, the Commission received a letter from counsel for  
8 LiveWirednet stating that it would not be sending the notice to its customers, as ordered by the  
9 Commission. As a result, Staff was ordered on March 3, 2003 to notify the Company's customers of  
10 the impending service disconnection. Subsequently, The Phone Company Management Group and/or  
11 The Phone Company of Arizona and/or On Systems Technology and Mr. Tim Wetherald, acted again  
12 in direct contravention of the Commission's February 25, 2003 and March 3, 2003 Procedural  
13 Orders, by selling the Company's customer base to a third party. The Respondents caused to be  
14 issued a notice to customers advising them of the proposed transfer to DMJ Communications, Inc.  
15 ("DMJ") which was in direct conflict with the Staff's notice issued in accordance with the March 3,  
16 2003 Procedural Order.

17  
18        59.     Decision No. 63382 requires PCMG to maintain a performance bond of \$100,000,  
19 which was to increase if at any time it would be insufficient to cover prepayments or deposits  
20 collected from the company's customers. The bond expired on February 19, 2003, and PCMG has  
21 not taken any action to renew the bond. PCMG has been out of compliance with Decision No. 63382  
22 since February 19, 2003. The Commission's May 15, 2003 Procedural Order required the Company  
23 to maintain the bonding requirement; however Staff has not seen any filing by the Company  
24 demonstrating its compliance.

25        60.     A Procedural Order issued by the Commission on April 11, 2003, granted Staff's  
26 Motion to Compel and required the Phone Company Management Group, the Phone Company of  
27 Arizona and Mr. Wetherald to respond to the Staff's data requests in this proceeding. In a letter dated  
28 April 29, 2003, Mr. Wetherald advised ALJ Dion and the Commission that he would not be

1 responding to any of the Staff's data requests and thus would not be complying with the  
2 Commission's Procedural Order.

3  
4 61. The Phone Company of Arizona, The Phone Company Management Group, On  
5 Systems and Mr. Wetherald have repeatedly acted in willful violation of Commission Orders and  
6 should be subject to fines under A.R.S. Sections 40-424 and 40-425.

7  
8 **RELIEF**

9 62. The Utilities Division Staff respectfully requests that the Commission commence an  
10 expedited investigation into this Complaint and take appropriate action, including but not limited to  
11 the following:

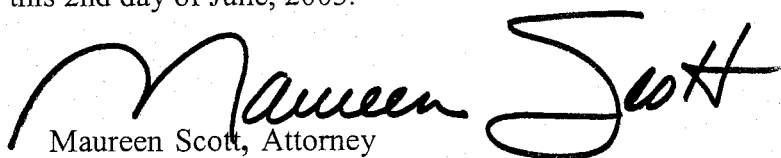
- 12  
13 a. Determine that the Respondents Phone Company Management Group and  
14 The Phone Company of Arizona are not technically and financially capable  
15 of providing telephone service in Arizona and that Respondents are not fit  
16 and proper entities to provide telephone service in Arizona;
- 17  
18 b. Determine that Respondent The Arizona Phone Company was serving  
19 customers without a valid CC&N;
- 20  
21 c. Determine that as a result the service provided by Respondents The Phone  
22 Company of Arizona and The Phone Company Management Group was  
23 inadequate and unreasonable;
- 24  
25 d. Revoke the CC&N of the Phone Company Management Group under the  
26 authority granted in A.R.S. Sections 40-202, 40-203, 40-321 and 40-322.
- 27  
28 e. Impose monetary penalties on The Phone Company Management Group,  
The Phone Company of Arizona, and On Systems Technology and its

1 members as may be appropriate under the authority granted in A.R.S.  
2 Sections 40-424 and 40-425 et seq.;

3  
4 f. Deny On Systems Technology and its members the right to obtain a CC&N  
5 in Arizona again due to their actions in this case.

6  
7 g. Such additional relief as may be requested during these proceedings and/or  
8 that the Commission may deem appropriate under the circumstances.

9  
10 RESPECTFULLY SUBMITTED this 2nd day of June, 2003.

11  
12 

13 Maureen Scott, Attorney  
14 Gary H. Horton, Attorney  
15 Legal Division  
16 Arizona Corporation Commission  
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18 Phoenix, Arizona 85007  
19 Telephone: (602) 542-3402  
20 Facsimile: (602) 542-4870

1 Original and 21 copies of the foregoing filed  
2 This 2<sup>nd</sup> day of June, 2003, with:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 West Washington  
6 Phoenix, Arizona 85007

7 Copy of the foregoing hand-delivered/mailed  
8 This 2<sup>nd</sup> day of June, 2003, to:

9 Lyn Farmer  
10 Chief Administrative Law Judge  
11 Hearing Division  
12 Arizona Corporation Commission  
13 1200 West Washington  
14 Phoenix, Arizona 85007

15 Ernest Johnson  
16 Director, Utilities Division  
17 Arizona Corporation Commission  
18 1200 West Washington  
19 Phoenix, Arizona 85007

20 Chairman Marc Spitzer  
21 Commissioner Jim Irvin  
22 Commissioner William A. Mundell  
23 Commissioner Jeff Hatch-Miller  
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